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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/786,080

02/28/2001

Andreas Flohr

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6376

27752

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04/27/2004

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INTELLECTUAL PROPERTY DIVISION  
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

14

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/786,080

Applicant(s)

FLOHR, ANDREAS

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wada et al. (5,746,729) in view of Thompson (3,929,135).

Wada discloses all aspects of the claimed invention but remains silent as to the apertures. Wada discloses a nonwoven web 11, as described in column 2, lines 37-39, comprising a first zone 6 and a second zone 7, each having a bonded area comprising bonds 15, as shown in figure 3. The bonded area of the second zone 7 is greater than that of the first zone 6, as shown in figure 1. The first zone 6 has an effective open area of at least 10%, as shown in figure 1. The nonwoven web 11 further comprises a plurality of apertures 10, as shown in figure 3.

Thompson discloses a topsheet 22 of an absorbent article, as shown in figure 1. The topsheet 22 comprises a plurality of apertures 26, as shown in figures 2-4, the apertures 26 having an effective size of at least  $0.2 \text{ mm}^2$ , as disclosed in column 4, lines 34-36. The topsheet 22 comprising apertures 26 disclosed by Thompson allows rapid flow of fluids while preventing movement of moisture back through the topsheet 22, as disclosed in column 5, lines 18-50.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the topsheet of Wada with the apertures of Thompson, to allow rapid flow of fluids while preventing movement of moisture back through the web.

With respect to claim 2, the first zone 6 comprises a central zone and the second zone 7 comprises an outer zone, as shown in figures 1 and 2.

With respect to claim 3, the web 11 comprises a pair of outer zones 7, as shown in figure 2.

With respect to claim 4, the central zone has an open area of at least 15%, as shown in figure 1.

With respect to claim 5, the central zone has a plurality of apertures 10, as shown in figure 1. Thompson discloses apertures having an effective size of greater than 1.0 mm<sup>2</sup>, as disclosed in column 4, lines 34-36.

With respect to claims 6, 7, and 15, Wada shows the bonded area of the central zone, but remains silent as to the percentage of the central zone being bonded. It would have been obvious to one of ordinary skill in the art at the time of invention to make the bonded area of the central zone between 5% and 12%, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With respect to claims 8, 9, and 16, Wada shows the bonded area of the outer zones, but remains silent as to the percentage of the outer zones being bonded. It would have been obvious to one of ordinary skill in the art at the time of invention to

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make the bonded area of the central zone between 15% and 25%, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With respect to claim 10, the article 1 comprises a liquid pervious topsheet 2, as shown in figure 2.

With respect to claim 11, the article 1 further comprises a backsheet 3 and absorbent core 4, as shown in figure 2.

With respect to claim 12, Wada discloses a bonded web formed by bonding the web in a first zone, bonding the web in a second zone such that the second zone has a greater bonded area than the first zone, and aperturing the central zone.

With respect to claim 13, the central zone has a open area of at least 10%, as shown in figure 1.

With respect to claim 14, Thompson discloses apertures having an effective size of greater than 0.2 mm<sup>2</sup>, as disclosed in column 4, lines 34-36.

With respect to claim 17, the web comprises a pair of outer zones, as shown in figure 2.

### ***Response to Arguments***

Applicant's arguments filed 17 February 2004 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

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are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Wada et al. disclose a nonwoven web for use as the topsheet of an absorbent article, as described in the rejection under 35 U.S.C. 103(a) above. Thompson is relied upon for his teaching of the size of apertures in the topsheet of an absorbent article. Therefore, the article of Wada, as modified by the teaching of Thompson, fulfills the limitations of the claim.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CM

cla  
April 22, 2004

  
JOHN CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700